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BOOK REVIEWS.

EDWARD N. PERKINS, *Editor-in-Charge.*

WATER RIGHTS IN THE WESTERN STATES. The law of prior appropriation of water as applied alone in some jurisdictions, and as, in others, confined to the public domain, with the common law of riparian rights for waters upon private lands. By SAMUEL C. WIEL of the San Francisco Bar. San Francisco: BANCROFT-WHITNEY COMPANY. Third Edition, revised and enlarged to June 1st, 1911. Vol. I, pp. i-xvi, 1-967; Vol. II, pp. 968-2067.

The first edition of this work appeared in 1905 and was followed in 1908 by a second. The present edition (1911) is an enlargement of the first two and it is apparently the author's intention to make this the final edition (see preface). From the time of the first edition, it has seemed to us that Mr. Wiel has handled his subject with more skill than any other writer and more exhaustively. He has performed a valuable service to the profession—scientifically pointing out and emphasizing the distinction between the California law and the Colorado law, and the distinction between the *corpus* of water and its *usufruct*. Had the latter distinction been clearly understood in the early days, much confusion would have been saved.

The arrangement of this edition is excellent. Part I is entirely new and treats "First Principles". The author deals with the following topics in separate chapters: "Running Water", "The Usufruct of the Natural Resources", "Water Severed from the Natural Resource and Reduced to Possession", "The Law Confined to Natural Resources". This Part is a most valuable addition to the former work, as it lays special emphasis on the scientific distinction between *corpus* and *use*, above referred to. Part II is an enlarged treatment of the historical development of the California and Colorado doctrines. Parts III and IV take up in detail the law of prior appropriation and the common law of riparian rights respectively. With these discussions following one another, the main features of difference in the two doctrines can be well studied. Part V treats of the subject of "Underground Water" and is by far the most exhaustive discussion of this topic of ever growing importance that has as yet been published. Part VI is an analysis of the administrative system and determination of rights, under State water codes and statutes. The California, Wyoming, and Colorado methods are particularly covered. Part VII is entitled "Distribution of Water". In this new edition the increasing recognition of irrigation companies as public service corporations is well pointed out and the importance of this question emphasized. Such questions as "reasonable service", "reasonable rates", "power of public boards or commissions to fix rates", "discriminations", and the like, are becoming more and more frequent, and it would seem that either absolute public ownership or at least a stringent public control would be the eventual solution of the present apparent conflicts between consumer and owner of the water system. In other words, the trend in irrigation matters is along lines parallel to those being followed by other public service companies. In this part, also, are treated the subjects of "Irrigation Districts", "Carey Act", "Reclamation by the United States Government", and other forms of public development.

Parts VIII and IX cover the subjects of Statutes and Forms. The Federal statutes, as well as those of California and Oregon, are given in full, while a digest of those of the other states and territories affected by the subject treated are given. Both the statutes and forms are very valuable for reference, but of course become obsolete in a comparatively short time and should not be relied upon exclusively by the practitioner. The main part of the work is followed by a "Table of Statutes Cited", "Table of Cases Cited", and an index, all of which are well compiled and are most helpful in using the book. The author in preparing this new edition has evidently been particularly anxious to point out as far as he could, not only the present condition of the law, but also the future trend as it is likely to be affected by the reclamation efforts of the United States Government, the tendency toward conservation, the growing insistence on a more economical use and in consequence a higher duty of water, and increasing recognition of the importance of some sort of public control.

In spite of our belief that this is without question the best work published on the subject, we must record our criticism of the author in that his point of view throughout the work appears somewhat biased by his leaning toward California's solution of these water questions. Colorado lawyers are not prepared to admit that California has solved her problems any better than Colorado has solved hers, and the inference on p. 128 (Vol. I) that those localities which are still excluding the common law riparian right doctrine are pioneer and unsettled regions, would hardly appeal to the average Coloradoan. It is to be doubted if the riparian doctrine could ever be applied to Colorado conditions, and the distinction between California (allowing the appropriation and riparian doctrines side by side) and Colorado (rejecting the riparian doctrine *in toto*) more probably lies in the fact that California is semi-arid, that it has a greater precipitation, and that it can on that account, with greater justice than could Colorado, administer the dual system. For like reasons, Mr. Wiel's inference (Part V) that the law of underground waters will follow riparian principles, while probably applicable to California, could not be safely followed for Colorado and the other strictly arid states; the foundation of the "first come, first served" principle would doubtless have its effect.

However, though we may take issue with certain tendencies, as above exemplified, we must heartily commend the work to the profession, not only for excellence of subject matter, but for the mechanical features as well, which appear to be beyond criticism.

H. A. S.

A TREATISE ON STATUTE LAW. By WILLIAM FEILDEN CRAIES, M. A. London: STEVENS & HAYNES. 1911. pp. ci, 725.

While this treatise is founded on Hardcastle's Statutory Law, and is described on the title page as the fifth edition of that work, the original text has been so much altered that the Hardcastle foundation bears small likeness to the Craies superstructure. However, the present editor adheres to the purpose of the author in attempting to present a book which "contains the actual positive rules in force deduced from statutes and case law," rather than one which treats of the theory of the subject matter.

Undoubtedly, this work is far more serviceable to the legal profession in England than in America—or to be quite accurate—in the